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FILED

DISTRICT COURT OF GUAM

OCT 31 2006

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MARY L.M. MORAN

CLERK OF COURT

Attorneys for the Defendants

UNITED STATES DISTRICT COURT OF GUAM
TERRITORY OF GUAM

J. C. ,

Plaintiff,

vs.

GREGORIO SALAS CALVO, in his official
capacity as Deputy Director Department of
Integrated Services for Individuals with
Disabilities (DISID), and
ROSANNE S. ADA, in her official capacity as
Director of DISID,

Defendants.

Civil Case No. CIV 06-00031

**DECLARATION OF ROSANNE ADA IN
SUPPORT OF MOTION TO DISMISS**

I, Rosanne S. Ada, declare:

1. I am a defendant in the above-captioned action sued therein in my official
2. capacity as Director of the Department of Integrated Services for Individuals
with Disabilities (DISID).
3. Attached hereto as Exhibit "A" is a pamphlet of (Interim) Rules and
Regulations for the Individualized Budgeting Program (IBP) administered by
DISID and referenced by plaintiff in his Complaint. The pamphlet describes,

1 among other things, the nature and purposes of the IBP. As shown, the IBP
2 provides financial allowance to eligible individuals with disabilities who are in
3 need of personal care services or home and community-based services.
4 Participants use this allowance to purchase their own care instead of receiving it
5 from an agency or contracted provider. The types or kinds of allowable costs
6 under this program are described in the Rules and Regulations under the
7 heading **PROCUREMENT PROCESS, Individualized Budget for Each**
8 **Consumer**. As to priority, given limited resources available, the Rules and
9 Regulations, under the heading **CONSUMER PARTICIPATION, Priority**
10 **Criteria Processing**, provide the primary criteria for prioritizing the applicant
11 consumers in the IBP as there shown.
12

13 4. At this point in the process of this newly initiated program, plaintiff's
14 application, and those of a majority of other applicants, has not been either
15 approved or disapproved.

16 5. In his Complaint, plaintiff makes reference also to his Individualized Plan for
17 Employment (IPE), a DISID program administered by its Division of
18 Vocational Rehabilitation (DVR). In plaintiff's case, pursuant to his IPE he
19 currently is enrolled at Guam Community College to further his education in
20 preparation for employment in the travel or tourism industry. His self-
21 determined goal at present is to become a self-employed, to start his own
22 business. It is anticipated that once he completes his current IPE, or approaches
23 completion, a progress assessment will be made and, dependent on the outcome,
24 a new IPE may be put in place to assist him further in achieving such goal.
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1 I declare under penalty of perjury that the foregoing is true and correct to the best of my
2 knowledge this 30 day of October, 2006.

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5 ROSANNE S. ADA
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DEPARTMENT OF INTEGRATED SERVICES FOR INDIVIDUALS WITH DISABILITIES (DISID)

INDIVIDUALIZED BUDGETING PROGRAM

COMPACT IMPACT FUNDING

U.S. Department of Interior

Administered by:

The Governor of Guam

The Honorable Felix P. Camacho

Through the:

Bureau of Budget and Management Research (BBMR)

INTERIM RULES AND REGULATIONS

ROSSANE S. ADA

DISID Director

EXHIBIT "A"

**DEPARTMENT OF INTEGRATED SERVICES
FOR INDIVIDUALS WITH DISABILITIES (DISID)**

“Individualized Budgeting Program”

A Sustainability-Funded Project under the Compact Impact Funds

U.S. Department of Interior

As presented and authorized by Governor Felix P. Camacho

INTERIM RULES & REGULATIONS

TITLE:

DISID Individualized Budgeting Program.

PURPOSE:

To implement the Individualized Budgeting Program within the Department of Integrated Services for Individuals with Disabilities for DISID consumers currently served by the DISID Division of Support Services, DISID Service Providers – Catholic Social Service (CSS) and Guma Mami, Inc. (GMI), and the Department of Mental Health and Substance Abuse (DMHSA). The Individualized Budgeting Program provides financial allowance to eligible individuals with disabilities who are in need of personal care services or home and community-based services. Participants use this allowance to purchase their own care instead of receiving it from an agency or contracted provider. The individual is given the choice and supports independently from typical programs offered through the government.

Background

The Individualized Budgeting Program was introduced to the Island of Guam and carried out by the Department of Integrated Services for Individuals with Disabilities (DISID) during the “Inadanna para Tinilaika – Partners for Change” Grant during the Pilot Project duration of January 1 to September 27, 2005.

Premises

The Department of Integrated Services for Individuals with Disabilities (DISID) hereby engages in the continuation of the “Individualized Budgeting Program” through funding from the *U.S. Department of Interior Compact Impact Funds* as submitted via the Bureau of Budget and Management Research and subsequently approved by the Honorable Felix P. Camacho, Governor of Guam in January, 2006.

POLICY:

It is the policy of the Department of Integrated Services for Individuals with Disabilities (DISID) to continue, and thus formalize, the “Individualized Budgeting Program,” after its successful implementation as a Pilot Project on September 27, 2005, under the *“Inadanna para Tinilaika – Partners for Change” Grant*, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services (HHS).

It is the intention of the Director of DISID to continue to seek sustainable funding sources, both through grants from the U.S. Federal Government, and as an integral part of the Annual Fiscal

Year Budget Appropriation for the Department of Integrated Services for Individuals with Disabilities.

Guiding Principles *(extracted from the "Inadanna para Tinilaika – Partners for Change" Grant)*

The Individualized Budget process will ensure that persons with disabilities are respected with dignity and receive equal treatment; persons with disabilities will be given the opportunity to make choices and selections with the necessary support; the input of persons with disabilities is significant and important; and the Department of Integrated Services for Individuals with Disabilities considers the need for quality services.

Project Director

The Director of the Department of Integrated Services for Individuals with Disabilities is the Project Director.

Project Period

For the Program Year commencing February 1, 2006 to March 31, 2007.

Amount of Funds Available

\$250,000 is authorized by the DISID Director as per the approval of the Director of Budget and Management Research (BBMR) as stated within the grant application.

Rules and Regulations

The Operations Manual utilized during the Individualized Budgeting Pilot Project, for the period of January 1 to September 30, 2005, and was duly reported under the "Impact Study" conducted by the University of Guam's Center for Excellence in Developmental Disabilities Education, Research and Service (CEDDERS), documented in a DVD training and orientation video, and the Official Final Reports to the Centers for Medicare and Medicaid (CMS), U.S. Department of Health and Human Services (HHS) continue to be the Operational Rules and Regulations pending transmittal for consideration and acceptance by the "Bente Ocho Na Lehisleturan Guahan" and the Governor of Guam.

PROCEDURES:

Definitions:

DISID is the Department of Integrated Services for Individuals with Disabilities.

"Individualized Budgeting Program" or IBP is that program, within the Department of Integrated Services for Individuals with Disabilities.

Consumer means an individual with a disability who has been deemed eligible for services and programs with the Department of Integrated Services for Individuals with Disabilities.

Consumer-driven is the primary goal of the Individualized Budgeting Program.

Social Worker/Case Worker is that designated DISID staff assigned to the individual consumers.

FUNDING AUTHORIZATION

First Year Funding

The “Inadanna para Tinilaika – Partners for Change” Grant provided \$50,000 for ten participating consumers with funds from the Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services.

Second Year Funding

This year, funding was made available through the approval of the Governor of Guam via a submission by DISID to the Bureau of Budget and Management Research for funds under the Compact Impact under the U.S. Department of Interior.

PROCUREMENT PROCESS

Department of Administration General Services Agency (GSA)

Authorized under Purchase Order No. PO66A05560, dated May 24, 2006. The captioned states “This Purchase Order is issued to cover the cost for reimbursement to Catholic Social Service for disbursement made to clients who are in need of personal care services or home and community-based services on an as needed basis.”

Fiscal Intermediary

The Catholic Social Service (CSS) is the designated “Fiscal Intermediary” of Fiscal Agent for the Individualized Budgeting Program. The CSS Controller is the authorized official to disburse all funds via a trusteeship checking account. All checks shall be made directly to the vendors or service providers as approved under the respective approved Individualized Service Plan and Individualized Budget of each participating consumer.

Individualized Budget for Each Consumer

The social worker/case worker shall meet with the consumer and their family supports in order to develop an “Individualized Budget” for submission to the DISID Director. Allowable costs includes: Medical – medications, physical and other therapy, medical insurance, assistance in filling out medical forms, picking up prescriptions, medication information and help in range of movement; Care Giving – household maintenance, personal care attendance to provide transportation, to assist in shopping, completing forms, cleaning homes, bathing and dressing, laundry, cooking meals and assisting with feeding, baking, assist in exercising, assist in the bathroom, advocacy and letter writing, transferring; Recreation and Leisure – someone to play games with, pay for movies, go to restaurants, bowling, concerts, sports activities, learn how to play a musical instrument, traveling; Transportation – to pay for bus fare and monthly bus passes, taxi, help pay for a car, gas allowance, car repairs, advocacy and assistance in writing letters regarding transportation; Financial – assistance with the rent, utility coverage, shopping allowance, assistance with education, food allowance, clothing, services to address spiritual needs, business start-up; Additional Needs – to hire a social worker, assist with a business, advocacy with vocational rehabilitation, to find a job, dressing/undressing, bathing, grooming, hair and skin care, bowel and bladder elimination, medications, adaptive device, eating, meal preparation, housekeeping and laundry, shopping and errands, and transportation; and Other

Miscellaneous – purchase home furnishing, adult undergarments, other types of service providers, specialized equipment, TDD, animal support, home repair, assistance at work, and other needs if necessary. The individual can purchase the supports they need just as long as it is not a duplication in service.

DISID Director's Approval

The IBP Application, the Individualized Service Plan and the Individualized Budget shall be submitted to and discussed with the DISID Director for approval.

Service Coordinator

Upon the DISID Director's approval, the Service Coordinator shall work with the social worker/case worker to fill in and process a voucher for each vendor for products and/or services as approved under the Individualized Budget. Upon signatures of the consumer, the social worker/case worker, and the DISID Director, the vouchers shall be transmitted to the Fiscal Intermediary for processing of the checks.

URGENT RESPONSE SYSTEM

Urgent Response System

The Catholic Social Service has been contracted to serve in the role of the DISID Individualized Budgeting Urgent Response System. The primary duties are as follows: to help make emergency telephone calls, finding transportation for a medical emergency, assisting the consumer recognize medications and its side effects, assistance with medication, finding emergency personal care assistance, and providing telephone supportive counseling.

CONSUMER PARTICIPATION

Eligibility

A. Individuals with a Disability

All DISID consumers (individuals with disabilities) are eligible and may enroll at the DISID Division of Support Services or within the contracted programs implemented by DISID service providers in which they are a current participant in - the Catholic Social Service (CSS) and Guma Mami, Inc. as well as "at risk" consumers served by the Department of Mental Health and Substance Abuse (DMHSA).

B. Program Announcement

The public announcements of the commencement of the Individualized Budgeting Program for the second year was made on numerous occasions at consumer meetings and forums, GDDC meetings, and via advertisement in the Pacific Daily News on April 5, 2006.

C. Application Process

The Applications for the Individualized Budgeting Program for the second year were made available from January 1 to May 19, 2006, with an extension to July 30, 2006.

Priority Criteria Processing

A. To commence upon Director's determination that the GSA Procurement, Department of Administration Division of Accounting, and the Fiscal Intermediary has been implemented, processed and in place.

B. The following are the primary criteria for prioritizing the applicant consumers in the Individualized Budgeting Program: (1) Homeless and severely Disabled (Safe Haven Consumers), (2) At risk of being homeless and severely disabled, such as those with aging parents, no family supports, or those under the Guam Public Guardian, (3) Referred by DISID Service Providers (Catholic Social Service and Guma Mami, Inc.) that meet the above two criteria, (4) Referred by DISID Division of Support Services and/or Department of Mental Health and Substance Abuse, (5) Allow for five consumers who have had strokes, and (6) Allow for five consumers with diabetes and are on renal dialysis.

EVALUATION AND REPORTS

Monthly Reports

The Fiscal Intermediary shall submit monthly reports of all funds expended to the DISID Director.

Evaluation

The DISID Program of Evaluation, Enforcement and Compliance (DEEC) shall engage in an ongoing evaluation of the Individualized Budgeting Program and shall carry out a closing evaluation at the close of the Program Year. The DISID Director shall also engage the services of the UOG Center for Excellence in Developmental Disabilities Education, Research and Service (CEDDERS).

Final Report

The Official Final Report of the Individualized Budgeting Program shall be submitted to the Governor of Guam, the Speaker of the "Lehislaturan Guahan", and to the U.S. Department of Interior.

Approved: ROSANNE S. ADA, DISID Director
 Date: Commenced compilation August 1, 2006